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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,759	08/21/2003	Masahiko Yamada	Q77053	7296

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EXAMINER

MARIAM, DANIEL G

ART UNIT PAPER NUMBER

2624

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/644,759

Applicant(s)

YAMADA, MASAHIKO

Examiner

DANIEL G. MARIAM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 8/21/03.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "3" and "4" have both been used to designate "object evaluation means. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 15 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 15 defines a "program" embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the

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function of the descriptive material to be realized"). That is, the scope of the presently claimed "program" can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer-readable medium" or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

Since claims 16-21 directly or indirectly depend on claim 15, they are also rejected under 35 U.S.C. 101, for the same reason set forth above for claim 15.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3 recite the limitation "the name" in line 3. A similar limitation also occurs in line 3 of claim 10. There is insufficient antecedent basis for this limitation in the claims.

Since claims 4 and 11 depend on claims 3 and 10 respectively, they are also rejected under 35 USC 112 second paragraph, for the same reason set forth above for claims 3 and 10.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5-10, 12-17, and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Li, et al (5,930,783).

With regard to claim 1, Li, et al discloses a similarity judgment method for judging a similarity value between images related to or attached with characteristic information, i.e., color, shape, etc, representing a characteristic of each of objects, i.e., tree, person, TV, airplane, bird, etc, therein, the similarity judgment method (See for example, 1-5, and particularly item 212) comprising the steps of: calculating a similarity value between the objects included in the images, based on the characteristic information (See for example, col. 5, line 30 –col. 5, line 65; and Figs. 1-5); calculating the similarity value between the images, based on the similarity value between the objects (See for example, col. 5, line 66 – col. 6, line 54; and Tables 3 & 4).

With regard to claim 2, the similarity judgment method according to claim 1, wherein the characteristic information is included in metadata of image data representing the images (See for example, col. 6, lines 49-51).

With regard to claim 3, the similarity judgment method according to claim 1, wherein the characteristic information refers to at least one of items comprising a candidate of the name of each of the objects, a reliability value representing likelihood of each of the objects having the name, position information representing a position of each of the objects in a corresponding one of the images, size information representing a size of each of the objects, and a statistic value regarding characteristic quantities of each of the objects (See for example, Table 4).

With regard to claim 5, the similarity judgment method according to claim 1, further comprising the step of storing the images by classifying the images according to the similarity value between the images (See for example, Table 4).

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With regard to claim 6, the similarity judgment method according to claim 5, further comprising the step of sequentially outputting the stored images according to the similarity value between the images (See for example, Fig. 14).

With regard to claim 7, the similarity judgment method according to claim 6, further comprising the steps of: storing the images by further classifying the images according to the similarity value between the objects included in the images, and sequentially outputting the stored images according to the similarity value between the objects in the images (See for example, Table 4 and Fig. 14 respectively).

Claims 8, 9, 10, 12, 13, and 14 are rejected the same as claims 1, 2, 3, 5, 6, and 7 respectively, except claims 8, 9, 10, 12, 13, and 14 are directed to apparatus claims. Thus, arguments analogous to those presented above for claims 1, 2, 3, 5, 6, and 7 are respectively applicable to claims 8, 9, 10, 12, 13, and 14.

Claims 15, 16, 17, 19, 20, and 21 are rejected the same as claims 1, 2, 3, 5, 6, and 7 respectively. Thus, arguments analogous to those presented above for claims 1, 2, 3, 5, 6, and 7 are respectively applicable to claims 15, 16, 17, 19, 20, and 21.

### ***Conclusion***


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent Numbers: 6163622, 6240423, 6240424, 6768816, and 6990233.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL G. MARIAM whose telephone number is 571-272-7394. The examiner can normally be reached on M-F (7:00-4:30) FIRST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW BELLA can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
DANIEL G MARIAM  
Primary Examiner  
Art Unit 2624

November 16, 2006